446.

SUPREME COURT OF THE UNITED STATES.

No. 133.

THOMAS H. McCLANAHAN, APPELLANT,

vs.

RICHARD DAVIS AND AL.

ON APPEAL FROM THE CIRCUIT COURT U. S. FOR THE DISTRICT OF COLUMBIA, HOLDEN IN AND FOR THE COUNTY OF ALEXANDRIA.

INDEX.

	Original.	Print.
Title	1	2
Bill	2	2
Exhibit A	12	7
Exhibit B	15	9
Plea in bar	16	10
Plea withdrawn	27	15
Demurrer to bill	27	15
Decree	28	16
Appeal	28	16
Bond	28	16
Clerk's certificate	30	17

J. & G. S. Gideon, printers.

DISTRICT OF COLUMBIA, *to wit:*

Pleas before the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, at the court house in the town of Alexandria, the 11th day of May, 1846.

Title.

THOMAS H. MCCLANAHAN, administrator of William J. McClanahan, deceased, complainant,
against
RICHARD DAVIS, William D. Nutt, administrator of George Coleman, deceased, Elizabeth Blacklock, the widow and relict of Nicholas F. Blacklock, deceased, Nicholas F. Blacklock, the younger, Jane Lowe, late Jane Blacklock, David Lowe, her husband, and Elizabeth Fox, late Elizabeth Blacklock, the said Nicholas F., the younger, Jane and Elizabeth, being the children of the late Nicholas F. Blacklock, the elder, deceased, defendants.

Be it remembered, that heretofore, to wit, at rules held at the clerk's office of the court aforesaid, for the month of April, 1845, came the complainant, by Christopher Neale, esq'r, his solicitor, and filed there a certain bill in writing, in these words, to wit:

Bill.

To the honorable the judges of the United States circuit court, of the District of Columbia and county of Alexandria, in chancery sitting:

Humbly complaining, sheweth unto your honors: Your orator, Thomas H. McClanahan, administrator of all and singular the goods and chattels, rights and credits, of William J. McClanahan, deceased, that one Elizabeth Edwards, long since dead, by her last will and testament, dated the 18th February, 1797, and the same duly proved and recorded in the county court of Northumberland, in the Commonwealth of Virginia, on the 12th June, 1797, [a true copy of which is hereto annexed, marked A, and the same prayed to be taken and received as part of this bill;] did, among other things in said will, give and bequeath to her daughter, by the name of Sarah Nutt, a negro girl named Lavinia, otherwise called Lavinia Wiggins, and who was a slave for life, with the future increase of the said Lavinia, for and during the natural life of the said Sarah Nutt, and at the death of said Sarah Nutt, then to the grand-daughter of the testatrix, to wit, Elizabeth Fauntleroy Nutt, and her heirs forever.

That the said Sarah Nutt, after the death of the said Elizabeth Edwards, her aforesaid mother, was duly possessed of the said negro girl Lavinia, a slave for life as aforesaid, by virtue of the aforesaid bequest, for and during her natural life; that being so possessed, the said Sa-

rah Nutt, some time in the year , authorized and appointed one Matthew Lampkin, of Northumberland county aforesaid, her agent or attorney in fact, to sell and dispose of the said slave girl, Lavinia, and that the said Matthew Lampkin, by virtue of the aforesaid appointment, did actually sell and dispose of the said Lavinia in the town of Alexandria, in the District of Columbia, where he had secretly carried her from Northumberland county aforesaid, to one Nicholas F. Blacklock, then a merchant in the town of Alexandria, but who has long since departed this life, leaving a widow and three children surviving him, as heirs and distributees, to wit, Elizabeth Blacklock, his widow, Nicholas F. Blacklock, Jane, who intermarried with one David Lowe, and Elizabeth, who intermarried with Lycurgus F. Fox, the last named now deceased; that the removal of the slave Lavinia from Virginia to the District of Columbia, and the sale thus made of her to Nicholas F. Blacklock, the elder, by Matthew Lampkin, as the authorized agent or attorney in fact of Sarah Nutt, the tenant for life, was made without the knowledge, privity, or consent of those in remainder, otherwise they would have prevented it if in their power, and so your orator positively avers. That since the sale aforesaid, the said Lavinia has had numerous increase, to wit, children and grandchildren, most of whom have been sold, or otherwise disposed of as your orator is informed and verily believes, and that some of them are either now going at large, or are in the possession of the family of the late Nicholas F. Blacklock, deceased, except negro Betsy, said to be one of the children of Lavinia, and who it is said was sold by N. F. Blacklock in his lifetime to one George Coleman, long since deceased, and who it is said is now in the possession of Richard Davis, who lately intermarried with Margaret Coleman, the daughter and only surviving child, heir at law, and distributee of the said George Coleman, deceased; or if not in the actual possession of the said Richard Davis, that she and her increase, as hereinafter stated, are under the control of William D. Nutt, who is the administrator of George Coleman, deceased; all of whom your orator prays may be made defendants to this bill; that is to say, Richard Davis, William D. Nutt, Nicholas F. Blacklock, David Lowe, and Jane, his wife, and Elizabeth Fox. That since the sale or otherwise of the said negro Betsey, to George Coleman as aforesaid, your orator is informed, and verily believes, that she has had four or five children, but their names, ages, and sexes, are unknown to your orator, but that they are now, as it is said, in the possession of the said Richard Davis, or under the control of the said William D. Nutt, administrator as aforesaid. Polly, another daughter of said Lavinia, lives it is said in the city of Washington, and has two or more children; their names, ages, and sexes, are unknown to your orator, nor does he know them or either of them personally, nor with whom they or either of them live. Maria, another daughter of the said Lavinia, lives with her mother in the town of Alexandria, and it is said that she and her mother are in the habit of hiring about the town of Alexandria, from place to place, accounting therefor to the family of the late Nicholas F. Blacklock, deceased, for and in behalf of Mrs. Elizabeth Blacklock, the widow of N. F. Blacklock

aforesaid deceased, and who is not made a defendant hereto, she being unable at present to answer this bill of complaint, in consequence of a serious mental affliction, and that no administration has ever been had in Alexandria county, in the District of Columbia, on the personal estate of the said N. F. Blacklock, deceased, and in which county the said Blacklock resided at the time of his death, and where his family has ever since continued to reside, except his son N. F. Blacklock. That the remaining issue [if any,] of the said Lavinia, if disposed of, are to persons unknown to your orator, but who, when discovered, your orator prays may be made defendants to this bill.

Your orator avers, that he has used every means in his power to discover the true number, ages, and sexes, and names of the children, and grandchildren, of the said Lavinia Wiggins, and in whose possession they are; but that the defendants, combining and confederating together, he has thereby been prevented from ascertaining the same, other than from mere hearsay, as hereinbefore stated; that he has therefore, no remedy at the common law, for want of the necessary proofs of the identity of the slaves in question, or any of them in particular, or who has them, or either of them, in possession, except from report; and that he has no means of acquiring the information, which he is advised is necessary, to enable him to sustain an action or actions at law, for the recovery of the aforesaid slaves, or any of them, and is therefore constrained to seek his remedy in a court of equity, where matters of this kind, under such circumstances, are alone cognizable and relievable, for as much as the knowledge of these facts is exclusively in the breasts of the defendants to this suit, and so your orator believes and avers.

Your orator further avers, that the said Sarah Nutt, the tenant for life of the slaves aforesaid, departed this life, on or about the day of in the year 1840, whereby her said estate in the said Lavinia, and her children and grandchildren, ceased and determined, while the rights of those in remainder became perfected.

That the said Elizabeth Fauntleroy Nutt, to whom the said Lavinia and her issue were given and bequeathed as aforesaid in remainder, intermarried with one William J. McClanahan, your orator's intestate; that the said Elizabeth departed this life, on the day of in the year her aforesaid husband surviving her, leaving one child only by her said husband, who also survived her mother, but who departed this life soon after her said mother, an infant of tender years, and intestate.

That the said William J. McClanahan has also lately departed this life intestate, and long after his said wife and daughter, and that your orator duly qualified as the administrator on the personal estate of the said William J. McClanahan, deceased, in the county court of Northumberland county, in the Commonwealth of Virginia. And your orator here exhibits to your honors letters of administration, granted him by said county court of Northumberland, on the said estate, marked B, as evidence thereof, and the same prayed to be received and considered as part of this bill of complaint. Your orator is therefore ad-

vised, that his intestate, or his next of kin, became entitled to the said Lavinia and her increase, after the determination of the life estate of the said Sarah Nutt, notwithstanding he died before the said Sarah Nutt, and notwithstanding he never had the slaves aforesaid in his possession, by virtue of his intermarriage with, and survivorship of his said wife and infant daughter, and only child, by the said Elizabeth, his aforesaid wife, according to the form and effect of the statute in such case made and provided, entitled "an act to reduce into one the several acts directing the course of descents," passed the 8th December, 1792. The said life estate having ceased and determined, as your orator avers, on the day of 1840, by the death of the said Sarah Nutt, and that your orator, as the administrator of the said William J. McClanahan, deceased, now has good right and title to sue for the recovery and possession of the said Lavinia, and her children and grandchildren, no right of action having accrued until after the death of the said Sarah Nutt.

In tender consideration whereof, and for as much as your orator has no remedy at the common law for the reasons hereinbefore stated, and can only be relieved in a court of equity, where such matters are alone cognizable and relievable; to the end, therefore, that the defendants may make, on oath, full, true, and perfect answers, to all and singular the premises, as tho' they were here especially interrogated thereto, and more particularly that the said William D. Nutt may say whether he did, or did not, administer on the personal estate of the late George Coleman, deceased. And if yea, where, when, and what slaves, [if any,] did he return to the court as the property of the said George Coleman, which granted the administration, their names, ages, sexes, and appraised value; and what disposition did he make of them, either in part or whole, where they or either of them now are, and in whose possession; and if he made no return thereof, why did he not do so. And that he answer, fully and at large, all knowledge which he may have concerning the same. And that the said Richard Davis may in like manner answer and say, if he did not intermarry with the said Margaret Coleman, the daughter of George Coleman, deceased; if the said negro woman, Betsey, did not come to his possession at the time of his intermarriage with Miss Coleman, aforesaid. If yea, in whose possession is she now; who claims her; how many children [if any] she now has; their names, ages, and sexes, and who claims them, and who has them, or either of them, in possession; if the said Betsey is not the reputed daughter of the said Lavinia; what is the presumed age of the said Betsey; and from whom and when did the said George Coleman, or any member of his family, get her; and was she not in the possession of the Coleman family, with her children, [if any,] at the time of his intermarriage? And that he answer, fully and at large, all knowledge which he may have concerning the same.

And that the said Nicholas F. Blacklock, David Lowe, and Jane, his wife, and Elizabeth Fox, do each of them, upon oath, answer and say, if Nicholas F. Blacklock, now deceased, did, or did not, in his lifetime,

purchase a negro woman named Lavinia, otherwise called Lavinia Wiggins, of one Matthew Lampkin? And if yea, when did he purchase her? Is she now living; and if living, with whom? Has she children and grandchildren, since she was sold? And if yea, their names, numbers, ages, and sexes; where they are, with whom, and who owns them, or either of them? Does the said Lavinia hire out; and if yea, to whom does she account for the hire? Has she not a daughter named Betsy; also one named Maria; and another named Polly; and have they not children? If yea, where are they; who owns them; in whose possession are they; by whose authority; who receives their hires, either in part or whole? And if administration has ever been had on the personal estate of Nicholas F. Blacklock, deceased, in the proper court of Alexandria county; and if Alexandria was not the place of residence of the said deceased, Mr. Blacklock, at the time of his death? And if his widow is not suffering, and has been suffering, under a mental incapacity as hereinbefore stated? And if they, the said Nicholas, Jane, and Elizabeth, are not the only surviving children of the said Nicholas F. Blacklock, deceased? And how long has Lavinia been in the family of the late Nicholas F. Blacklock, deceased, if ever she belonged to their deceased father?

And your orator prays, that your honors will direct a commissioner, or master in chancery, of this honorable court, to take and state an account of the value, and the hires and profits of the aforesaid slaves, when their names and numbers shall be ascertained, since the determination of the life estate of the said Sarah Nutt; and also a statement of their increase, and the cost of raising and maintaining them while too young to labor, with their names, ages, and sexes, and in whose possession they are, and who owns or claims them, or either of them; and the better to enable the commissioner to perform this duty, that he cause to come before him, at such time or times, and place, as he shall designate, all persons having personal knowledge thereof, or who may be brought before him by your orator, or by others for and on behalf of your orator, or for and on behalf of the defendants. And your orator prays, that upon such report being made to your honors by the commissioner so appointed, that your honors will decree him restitution of the slaves, which shall from the report belong to those in remainder; and also such hires and profits of said slaves as by the said report shall appear to be justly due your orator, as the legal representative of the said William J. McClanahan, deceased; and that your honors will grant your orator such other and further relief in the premises as shall be deemed by your honors consistent with equity and justice.

May it please your honors to grant to your orator the United States most gracious writ of subpœna to the defendants directed, commanding them, &c., &c.

CHR. NEALE,
Sol. for complainant.

COMMONWEALTH OF VIRGINIA,
Northumberland county, sct:

Thomas H. McClanahan, administrator of William J. McClanahan,

deceased, personally appeared before the subscriber, a justice of the peace in and for the county aforesaid, and made oath in due form of law, that the matters and things in the foregoing bill of complaint, as stated of his knowledge, are true; and that those stated as of the knowledge of others, he believes to be true.

Given from under my hand this the 30th day of January, 1845.

RAWLEIGH D. CARTER, *J. P.*

STATE OF VIRGINIA,
Northumberland county, to wit:

I, M. B. Cralle, clerk of the court of said county, do hereby certify, that Rawleigh D. Carter, gent., whose name is appended to the foregoing certificate of acknowledgment, was at the time of signing the same, and still is, a justice of the peace in and for the said county, duly commissioned and qualified.

[L. S.] In testimony whereof, I have hereunto set my hand and affixed the seal of said county, the 19th of February, 1845.

M. B. CRALLE,
Clerk of Northumberland county court.

STATE OF VIRGINIA,
Northumberland county, sct:

I, Joseph Basye, presiding justice of the court of Northumberland county, in the State aforesaid, do hereby certify, that Mottrom B. Cralle, whose name is subscribed to the foregoing certificate, is clerk of the court of the county aforesaid, and that his certificate, with the county seal thereto, is in due form of law.

Given under my hand this the 19th day of February, 1845.

JOSEPH BASYE.

Exhibit A.—Exhibit A.

In the name of God, amen. I, Elizabeth Edwards, being of sound and perfect memory, do make this my last will and testament in manner and form following, to wit: I give and bequeath to my son, Thomas Edwards, my negro boy Harry, to him and his heirs forever. I give and bequeath to my son, LeRoy Edwards, seventy shillings, Virginia currency, to be raised and paid out of my estate by my executors hereafter mentioned. I give and bequeath to my daughter, Sarah Nutt, my negro girl Lavinia, with her future increase, during her life, and at her death, to my grand-daughter, Eliza Fauntleroy Nutt, and her heirs forever. I give to my grand-daughter, Sarah Elizabeth Edwards, my negro girl Sarah, with her future increase, to her and her heirs forever. I lend to my daughter, Elizabeth Scarborough, my negro girl Nanny, during her life, and at her death, provided she leaves no issue, to return and to be equally divided between my daughter, Catharine Edwards, and my son, Griffin Edwards; but if my daughter, Elizabeth aforesaid, should leave issue, that then, in that case, I leave my said negro Nanny, with her future increase, to him, her, or them, and their heirs, for-

ever. I give and bequeath to my daughter, Catharine Edwards, my negro fellow David, to her and her heirs forever. I also give to my daughter, Catharine aforesaid, my best bed and furniture, and my large trunk, to her and her heirs forever. I give and bequeath to my daughter, Ann Ker, a suit of mourning, to be paid for out of my estate by my executors hereafter mentioned; that, together with the former provisions made for her and children by me, I hope she will consider as sufficient. I give and bequeath to my son, Griffin Edwards, my two negroes Moses and Alfred, my second best bed and furniture, my large looking glass, and my silver sugar tongs, to him and his heirs forever; provided he, my son Griffin, shall pay my debts; but in case he refuses, then it is my wish and desire that part of the above property bequeathed to him shall be sold for the purpose of paying my debts.

It is my will and desire, that after all the above legacies are paid, that the residue of my estate, of what kind soever, shall be equally divided between my daughter Catherine and son Griffin Edwards, to them and their heirs, forever. I do hereby nominate and appoint my three loving sons, Thomas, Le Roy, and Griffin Edwards, executors to this my last will and testament, hereby revoking all other wills by me made, as witness my hand and seal, this 18th day of February, one thousand seven hundred and ninety-seven.

ELIZABETH EDWARDS. [L. S.]

WM. LEWIS,
her
JUDAH ⋈ LEWIS.
mark.

At a court of monthly session held for Northumberland, at the court house, on Monday, the 12th day of June, 1797, the last will and testament of Elizabeth Edwards, deceased, was proved by the oaths of William Lewis and Judah Lewis, the witnesses thereto, and ordered to be recorded; and on the motion of Griffin Edwards, one of the executors named in the said will, who made oath thereto, and together with Charles Leland, his security, entered into and acknowledged a bond in the penalty of fifteen hundred pounds, conditioned as the law directs, certificate is granted him for obtaining a probate thereof, in due form; liberty being reserved to the other executors named in the said will to join in the probate when they shall think fit.

Teste: CATESBY JONES, *C. C.*

I, M. B. Cralle, clerk of the court of the county of Northumberland, do hereby certify, that the foregoing is a true copy of the last will and testament of Elizabeth Edwards, deceased, now of record in the court of said county.

In testimony whereof, I have hereunto set my hand, and affixed the [L. S.] seal of said county, this 20th day of March, 1844.

M. B. CRALLE, *C. C.*

COMMONWEALTH OF VIRGINIA, *sct:*
Northumberland county.

I, Joseph Basye, a justice of the peace in and for Northumberland county, and State of Virginia, and presiding member of the court of the said county, do hereby certify, that M. B. Cralle, esq., whose certificate, as clerk of the county court of Northumberland, and Commonwealth of Virginia, is hereunto annexed, with the seal of the said court, was at the time of making the certificate, and affixing the seal aforesaid, and still is, the clerk of the said court, duly appointed and qualified according to law, and to all his official acts as such due faith and credit is due, and of right should to be given.

Given under my hand and seal, this 21st day of March, 1844.

JOSEPH BASYE. [L. S.]

Exhibit B.

COMMONWEALTH OF VIRGINIA:
Northumberland county court, 9th November, 1840.

Be it remembered, that on this day, on the motion of Thomas H. McClanahan, administration of all and singular the goods and chattels, rights and credits, of Elizabeth F. McClanahan, deceased, is granted to the said Thomas H. McClanahan, who thereupon entered into bond with security, conditioned as the law directs, and took the oath prescribed by law in that case.

Teste: M. B. CRALLE, *C. C.*

Exhibit B.

COMMONWEALTH OF VIRGINIA:
Northumberland county court, 9th September, 1839.

Be it remembered, that on this day, on the motion of Thomas H. McClanahan, administration of all and singular the goods and chattels, rights and credits, of Wm. J. McClanahan, deceased, is granted to the said Thomas H. McClanahan, who thereupon entered into bond, with security, conditioned as the law directs, and took the oath prescribed by law in that case.

Teste: M. B. CRALLE, *C. C.*

STATE OF VIRGINIA:
Northumberland county, to wit:

I, M. B. Cralle, clerk of the court of said county, do hereby certify, that the foregoing are exact transcripts from the records of the court of Northumberland county aforesaid.

In testimony whereof, I have hereunto set my hand, and affixed the [L. S.] seal of said county, this the 21st day of March, 1844.

M. B. CRALLE, *C. C.*

COMMONWEALTH OF VIRGINIA,
Northumberland county, sct:

I, Joseph Basye, a justice of the peace in and for the county of Northumberland, and Commonwealth of Virginia, and presiding mem-

ber of the court of said county, do hereby certify, that M. B. Cralle, esq., whose certificate as clerk of the county court of Northumberland, and Commonwealth of Virginia, is hereunto annexed, with the seal of the said court, was at the time of making the certificate, and affixing the seal aforesaid, and still is, the clerk of said court, duly appointed and qualified according to law, and that to all his official acts as such, due faith and credit is due and of right should be given.

Given under my hand and seal, this 21st day of March, 1844.

JOSEPH BASYE. [L. S.]

And the said Richard Davis, one of the aforesaid defendants, by Francis L. Smith, his solicitor, filed the following plea, and on motion of the complainant the same was set down for argument.

Plea in bar.

The defendant Richard Davis, by protestation, not confessing or acknowledging all or any of the matters and things in the said complainant's said bill mentioned to be true, in such manner and as the same are therein and thereby set forth and alleged, doth plead thereunto, and for plea saith, that the said complainant, on the 30th day of November, 1843, filed on the chancery side of this honorable court a bill against this respondent and others, as defendants, which is in the following words and figures, to wit:

To the honorable the judges of the United States circuit court, for the district of Columbia, and county of Alexandria, in chancery sitting.

Humby complaining, sheweth unto your honors, your orator, Thomas H. McClanahan, administrator of all and singular the goods and chattels, rights and credits, of William J. McClanahan, deceased; that one Elizabeth Edwards, long since dead, by her last will and testament, dated the 18th February, 1797, and the same duly proved and recorded in the county court of Northumberland county, in the Commonwealth of Virginia, on the 12th of June, 1797, [a true copy of which is hereto annexed, marked A, and the same prayed to be taken and received as a part of this bill,] did, among other things, give and bequeath to her daughter Sarah Nutt, a negro slave for life, named Lavinia, otherwise called Lavinia Wiggins, with the future increase of the said Lavinia, for and during the natural life of the said Sarah Nutt, and at the death of the said Sarah, then to the grand daughter of the testatrix, to wit, Elizabeth Fauntleroy Nutt, and her heirs, forever.

That the said Sarah Nutt, after the death of the said Elizabeth Edwards, her aforesaid mother, was duly possessed of the said negro girl Lavinia, a slave for life, by virtue of the aforesaid bequest, for and during her natural life; that, being so possessed, the said Sarah Nutt, some time in the year authorized and appointed one Matthew Lampkin, of Northumberland county, in the commonwealth aforesaid, her agent or attorney in fact, to sell and dispose of the said slave girl Lavinia, and that the said Matthew Lampkin, by virtue of the aforesaid appointment, did actually sell and dispose of the said Lavinia in the town of Alexandria,

where he had secretly carried her from Northumberland county, to one Nicholas F. Blacklock, who has long since departed this life. That the sale thus made by Lampkin to Blacklock, as the agent of Sarah Nutt, was made without the knowledge, privity, or consent of those in remainder, otherwise they would have prevented it if possible. And so your orator positively avers.

That since the sale aforesaid the said Lavinia has had numerous issue, to wit, children and grandchildren, most of whom have been sold, or otherwise disposed of, as your orator is informed and verily believes; and that some of them are either going at large, or are in the possession of the family, or family connexions, of the aforesaid Nicholas F. Blacklock, deceased, as for instance, that negro the grandson of Lavinia, is now as it is said in the actual possession of Nicholas F. Blacklock, the son of Nicholas F. Blacklock, deceased, and who resides at this time, and has for some time past resided, in the city of Baltimore. That negro Betsey, a daughter of the aforesaid Lavinia, is now either in the possession of Elizabeth Coleman, the widow of George Coleman, deceased, or in the possession of Richard Davis, who lately intermarried with Margaret Coleman, the daughter and only surviving child of the said George Coleman and Elizabeth Coleman, his widow, or in the possession of, or under the control of, William D. Nutt, the administrator of said George Coleman, deceased; all of whom your orator prays may be made defendants to this his bill of complaint, that is to say, Nicholas F. Blacklock, the younger, Elizabeth Coleman, Richard Davis, for himself and for and on account of his wife, Margaret Coleman, now Margaret Davis, and William D. Nutt, the administrator of George Coleman aforesaid, deceased. That since the sale, or otherwise, of the said negro Betsey, to the Coleman family, your orator is informed, and verily believes, that she has had four or five children, but their ages, names, and sexes are unknown to your orator, but that they are all in the possession of the Coleman family, including their mother, the said Betsey.

Polly, another daughter of the said Lavinia, it is said, lives in the city of Washington, and has two or more children; their names, ages, and sexes, unknown to your orator, nor does he know with whom they live. Maria, another daughter of the said Lavinia, lives with her mother in the town of Alexandria, and it is said that she and her said mother are in the habit of hiring about from place to place, accounting therefor to Jesse T. Ramsay or George W. D. Ramsay, or some other person or persons unknown to your orator, for and on behalf of Mrs. Elizabeth Blacklock, the widow of Nicholas F. Blacklock, deceased, and who is not made a defendant hereto, being unable at present to answer this bill, her mind being seriously impaired; and that no administration has been had in Alexandria county on the personal estate of the said N. F. Blacklock, deceased. Your orator therefore prays that the said Jesse T. Ramsay and George W. D. Ramsay may also be made defendants hereto, and also that the said Jesse T. Ramsay may be appointed by your honors the committee of the said Elizabeth

Blacklock, to defend and protect her interest [if any she has] in this suit.

That the remaining issue, if any, of the said Lavinia, have been sold, or otherwise disposed of, to persons unknown to your orator, but who, when discovered, your orator prays may be made defendants to this bill. Your orator avers, that the said Sarah Nutt, the tenant for life of Lavinia aforesaid, departed this life on or about the day of in the year 1840, whereby her estate in the said Lavinia and her issue wholly ceased and determined, while the rights of those in remainder became perfected. That the said Elizabeth Fauntleroy Nutt, to whom the said Lavinia and her issue were given and bequeathed as aforesaid in remainder, intermarried with one William J. McClanahan, your orator's intestate; that the said Elizabeth departed this life on the day of in the year her aforesaid husband surviving her, leaving one child only by her said husband, who also survived her mother, but who departed this life soon after her mother's death. That the said William J. McClanahan has also lately departed this life intestate, and long after his said wife and daughter, and that your orator duly qualified as the administrator on the personal estate of the said William J. McClanahan, deceased, in the county court of Northumberland county, Virginia; and your orator here exhibits to your honors letters of administration, granted him by said court, on the said estate, marked B, as evidence thereof, and the same prayed to be received and considered as part of this bill of complaint. Your orator is therefore advised, that his intestate became entitled to the said Lavinia and her increase, after the determination of the life estate of the said Sarah Nutt, by virtue of his said intermarriage and survivorship of his wife Elizabeth, formerly Elizabeth Fauntleroy Nutt, and also as survivor, and next of kin, of his infant daughter, and only child, by the said Elizabeth, according to the form and effect of the statute in such case made and provided, entitled "An act to reduce into one the several acts directing the course of descents," passed the 8th December, 1792; the said life estate, as your orator avers, having determined on the day of in the year 1840, by the death of the said Sarah Nutt; and that your orator, as the administrator of the said William J. McClanahan, deceased, is entitled to the same.

In tender consideration whereof, and for as much as your orator has no remedy at the common law, and can only be relieved in a court of equity, where such matters are alone cognizable and relievable; to the end, therefore, that the defendants may make, on oath, true, full, and perfect answers to all and singular the premises, as though they were here specially interrogated thereunto; and more particularly that the said William D. Nutt may say, whether he did or did not administer on the personal estate of the late George Coleman, deceased; and if yea, where, when, and what slaves did he return to the court, which granted the administration, their names, ages, sexes, and appraised value, as the property of the said George Coleman? And what disposition did he make of them, either in part or whole, where they or either

of them now are, and in whose possession? And if he made no return thereof, why did he not do so?

That Elizabeth Coleman, the widow of George Coleman, may say, if her late husband, or herself, or some one for them, or either of them, did not purchase, or otherwise become possessed of a female slave, named Betsey? And from whom, and when? If the said Betsey is not the reputed daughter of Lavinia, and if the said Betsey is not now in her possession, or in the possession of Richard Davis, who lately intermarried with Margaret Coleman, her daughter? If the said Betsey has or has not had several children since she became her and her late husband's property, or been in the possession of the Coleman family? And if yea, their names, ages, numbers, and sexes; and where they, or either of them, now are, and in whose possession they, or either of them, now are. That the said Richard Davis may also answer and say, if he did not intermarry with Margaret Coleman, the daughter of George Coleman, deceased, and Elizabeth Coleman, his widow; if the aforesaid Betsey is or is not in the possession of the Coleman family, or in his, or his mother-in-law's possession; or if not now in their possession, where is she; and when did they, or either of them, part with the possession, if ever they had it, and to whom? To answer and say, if the said Betsey has any children; and if yea, their names, ages, sexes, and numbers, and in whose possession they now are, as well as their mother, the aforesaid Betsey; and what is the presumed age of their mother, the aforesaid Betsey?

That the said Jesse T. Ramsay and George W. D. Ramsay may severally say, if Nicholas F. Blacklock in his lifetime did, or did not, purchase of one Matthew Lampkin a slave woman, named Lavinia; and if yea, is the said Lavinia now living; and if yea, where and with whom, who owns her, does she hire out, and to whom does she account for the hire; has she not a daughter named Maria with her, who owns her, where is she, with whom does she live? To say, if the said Lavinia had not several children and grand-children since N. F. Blacklock purchased her, their names, ages, sexes, and numbers, where they now are, in whose possession, by whose authority, who claims them as their property, who receives their hires, either in part or whole; and if administration has ever been had on the personal estate of N. F. Blacklock, deceased, in the proper court of Alexandria county; and if Alexandria was not the place of residence of the said N. F. Blacklock, at the time of his death; and if his widow is not now suffering under a mental incapacity, as herein before stated?

And that the said Nicholas F. Blacklock, the younger, may also say, if he had not, and still has, in his possession, a negro man named , the son or grandson of old Lavinia; and if yea, what is his name and age; and if nay, who now has him; and when did he part with him, if ever he did; also, to say how many children the said Lavinia had, since she was purchased by his father, including her grandchildren, their number, ages, names, and sexes, and who now has them, or any of them, in possession?

And your orator prays that your honors will direct a commissioner of this honorable court, to take and state an account of the value, and also the hires of the aforesaid slaves, when their names and numbers shall be ascertained, since the determination of the life estate of the said Sarah Nutt, and report the same to the court; and the better to enable the said commissioner to perform this duty, that he cause to cóme before him, to testify on oath all persons having personal knowledge thereof, or who may be brought before him by your orator, or by others, for and on behalf of your orator.

And your orator also prays, that your honors will grant him such other and further relief in the premises, as shall be deemed by your honors most consistent with equity and justice.

May it please your honors to grant to your orator the United States most gracious writ of subpœna, to the defendants directed, commanding, &c., &c.

CHR. NEAL, *Solicitor for complainant.*

And the said Richard Davis doth further aver, that on another said day, to wit, on the 2d day of February, 1844, he filed in the said court a demurrer to said bill, which is in the words and figures following, to wit:

THOMAS H. McCLANAHAN, administrator of William J. McClanahan, deceased,
against
ELIZABETH COLEMAN, RICHARD DAVIS, and MARGARET his wife, and WILLIAM D. NUTT, administrator of George Coleman, deceased.

These defendants, respectively, by protestation, not confessing or acknowledging all or any of the matters and things in the said complainant's bill to be true, in such manner as the same are therein set forth and alleged, do demur thereto, and for cause of demurrer show:

That the said complainant hath not, in and by said bill, made or stated such a case as doth or ought to entitle him to any of such discovery or relief, as is thereby sought and prayed for, from and against these defendants.

And for further cause of demurrer in this behalf, these defendants shew, that the said complainant hath not, as appears by his said bill, made out any title to the relief thereby prayed.

And for further cause of demurrer in this behalf, these defendants shew, that it appears by said bill the same is exhibited by the said complainant against these defendants, and Jesse T. Ramsay, George W. D. Ramsay, and Nicholas F. Blacklock, junior, as defendants thereto, for several distinct matters and causes, in many whereof, as appears by the said bill, these defendants are in no way interested; and by reason of such matters, the said bill is drawn out to a considerable length, and these defendants are compelled to take a copy of the whole thereof, and by joining distinct matters together, which do not depend on each other,

the proceedings in the progress of the said suit will be intricate and prolix, and these defendants put to unnecessary charges and expense, in matters which in no way relate to or concern them.

Wherefore, and for divers other errors and imperfections, these defendants humbly demand the judgment of this honorable court, whether they shall be compelled to make any further or other answer to the said bill, or any of the matters and things therein contained, and pray hence to be dismissed, with their reasonable costs in this behalf expended.

FRANCIS L. SMITH,
Solicitor for defendants.

And the said Richard Davis doth further plead and aver, that such further proceedings were taken in said cause, that at the October term, 1844, of said court, the said cause was fully heard; upon consideration whereof, it was ordered, adjudged, and decreed by said court, that the said bill should be dismissed, and the decree of said dismission was signed and enrolled on the records and proceedings of said court; all of which are herein specially referred to, as a part of this plea.

The said defendant further avers, that the said bill last filed by the said complainant, puts in issue the same facts substantially as are set forth in the said bill, which was dismissed in manner and form aforesaid.

And the said defendant doth aver and plead, the said order and decree of dismissal in bar to the said bill last filed by the complainant as aforesaid, and prays the judgment of this honorable court, whether he should make any further answer to said bill, or any part thereof, as is herein before pleaded to.

FRANCIS L. SMITH,
Solicitor for defendant.

Plea withdrawn.

At another day, to wit, at a court continued and held for the District and county aforesaid, the 18th day of October, 1845, came the parties aforesaid, by their solicitors, and the plea in bar to the said bill is by consent withdrawn, and the said defendants thereupon filed the following demurrer to the said bill, and the complainant joins in the same, and the said demurrer is set down for argument.

Demurrer to bill.

THOMAS H. McCLANAHAN, administrator, &c.,
vs.
ELIZABETH COLEMAN, RICHARD DAVIS, and MARGARET his wife, and WILLIAM D. NUTT, administrator, &c., and other defendants.

These defendants, respectfully by protestation, not confessing or acknowledging all or any of the matters and things in the said complainant's bill to be true, in such manner as the same are therein set forth and alleged, do demur thereto, and for cause of demurrer show:

1st. That the said complainant hath not, in and by said bill, made or stated such a case as doth or ought to entitle him to any such discovery or relief, as is sought and prayed for, from and against these defendants.

2d. That the said complainant hath not, as appears by his said bill, made out any title to the relief thereby prayed.

3d. That the said complainant, by his own showing in said bill, is not entitled to the discovery and relief therein prayed, but is barred therefrom by lapse of time, and the statute of limitation, in such cases made and provided. Wherefore, and for divers other errors and imperfections, these defendants humbly demand the judgment of this honorable court, whether they shall be compelled to make any further or other answer to the said bill, or any of the matters and things therein contained, and pray hence to be dismissed with their reasonable costs in this behalf expended.

FRANCIS L. SMITH,
Solicitor for defendants.

Decree and appeal.

At another day, to wit, at a court continued and held for the District and county aforesaid, the 11th day of May, 1846, came the parties aforesaid by their solicitors, and thereupon, the demurrer of the defendants to the complainant's bill being argued, it is the opinion of the court that the said demurrer is good. Therefore, it is decreed and ordered, that the said bill be dismissed; and that the complainant pay to the defendants their costs; from which decree the complainant appeals to the Supreme Court of the United States, which is granted by the court, upon his giving bond and security in the sum of two hundred dollars, to be approved by the court or one of the judges thereof.

Bond.

Know all men by these presents, that we, Thomas H. McClanahan and Christopher Neal, are held and firmly bound unto Richard Davis, William D. Nutt, adm'r of George Coleman, deceased, Elizabeth Blacklock, widow and relict of Nicholas F. Blacklock, deceased, Nicholas F. Blacklock, the younger, Jane Lowe, late Jane Blacklock, David Lowe, her husband, and Elizabeth Fox, late Elizabeth Blacklock—the said Nicholas F. Blacklock, the younger, Jane, and Elizabeth being the children of the late Nicholas F. Blacklock, the elder, deceased, in the full and just sum of two hundred dollars, to the payment whereof, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 25th day of July, 1846.

Whereas, at an United States circuit court of the District of Columbia, continued and held for the county of Alexandria, the 30th day of May, 1846, in the cause of Thomas H. McClanahan, adm'r of William J. McClanahan, deceased, complainant, against Richard Davis,

454.

William D. Nutt, adm'r of George Coleman, deceased, Elizabeth Blacklock, widow and relict of Nicholas F. Blacklock, deceased, Nicholas F. Blacklock, the younger, Jane Lowe, late Jane Blacklock, David Lowe her husband, and Elizabeth Fox, late Elizabeth Blacklock—the said Nicholas F. Blacklock, the younger, Jane, and Elizabeth being the children of the late Nicholas F. Blacklock, the elder, deceased, defendants, it was by the said court decreed and ordered, that the complainant's bill be dismissed with costs; from which decree the complainant prayed and obtained an appeal to the Supreme Court of the United States, to be holden at Washington, the present seat of the National Government.

Now, the condition of the above obligation is such, that if the said Thomas H. McClanahan, adm'r as aforesaid, shall prosecute his said appeal, and pay all costs and charges which may be awarded against them, in case he shall fail therein, then the above obligation to be void, else to remain in full force, power, and virtue.

THOMAS H. McCLANAHAN, [L. S.]
CHS. NEAL. [L. S.]

Sealed and delivered in the presence of—
WM. H. HARDING.

Approved by the court, October 5th, 1846.

Clerk's certificate.

DISTRICT OF COLUMBIA, *County of Alexandria, sct:*

I, Cassius F. Lee, clerk of the United States circuit court of the District of Columbia, for the county of Alexandria, do hereby certify, that the foregoing is a true transcript of the record and proceedings in a certain cause lately depending in said court, in which Thomas H. McClanahan, adm'r of Wm. J. McClanahan, deceased, is complainant, and Richard Davis and others are defendants, with all things touching the same, as fully as they exist, in my office.

[L. S.] In testimony whereof, I hereto set my hand and the seal of said court, this 3d day of October, A. D. 1846.

CASSIUS F. LEE, *C. C.*

Filed 20th October, 1846.